

REMARKS/ARGUMENTS

Summary of the Final Office Action

Claims 30, 31, 32 and 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Thrasher et al. (U.S. Patent No. 6,241,361) (hereinafter “Thrasher”).

Claims 30, 32, 39 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ruthenberg (U.S. Patent No. 6,184,628) (hereinafter “Ruthenberg”).

Claims 30, 31, 39 and 50 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Poppenheimer (U.S. Patent No. 5,556,188) (hereinafter “Poppenheimer”).

Claims 30, 32, 39 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rowley et al. (U.S. Patent No. 3,962,675) (hereinafter “Rowley”).

Claim 51 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Poppenheimer as applied to claims 30, 39 and 50 and further in view of Thrasher.

Claims 33 and 34 stand rejected under 35 U.S.C. § 103(a) as being obvious over Rowley as applied to claims 30 and 32 and further in view of Poggi (U.S. Patent No. 5,800,041) (hereinafter “Poggi”).

Claims 34-38, 40-48 and 52-62, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form.

Summary of the Response to the Final Office Action

Applicant has amended independent claim 30 to differently describe embodiments of the disclosure of the instant application. Accordingly, claims 30-62 remain currently pending for consideration.

Rejections under 35 U.S.C. §§ 102(b) and 103(a) and Statement of the Substance of**Examiner Interview**

Claims 30, 31, 32 and 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Thrasher. Claims 30, 32, 39 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ruthenberg. Claims 30, 31, 39 and 50 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Poppenheimer. Claims 30, 32, 39 and 49 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rowley. Claim 51 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Poppenheimer as applied to claims 30, 39 and 50 and further in view of Thrasher. Claims 33 and 34 stand rejected under 35 U.S.C. § 103(a) as being obvious over Rowley as applied to claims 30 and 32 and further in view of Poggi. Applicant has amended independent claim 30 in order to differently describe embodiments of the disclosure of the instant application in accordance with a discussion with Examiner Leah S. Lovell, as described below. To the extent that these rejections might be deemed to still apply to the claims as newly-amended, the rejections are respectfully traversed for at least the following reasons.

Examiner Leah S. Lovell is thanked for the courtesies extended to Applicant's representative during a telephone interview on December 13, 2006 with regard to the instant application.

During the interview, Applicant's representative explained how an important feature of the underwater pool light of the instant application is the guard member described in independent claim 30. In particular, an example was provided of the resultant advantages of the guard member when it is utilized in combination with remaining components of the underwater pool light, such as the lens and the plurality of fasteners that connect the lens to the housing of the underwater pool light. This arrangement is specifically described in independent claim 30 of the instant application. The guard member is illustrated, for example, as trim guard 60 in Fig. 3 of the instant application.

Applicant's representative explained to the Examiner that the prior art arrangement, as described in each of the references applied in the Office Actions to date in this application, provides fasteners connecting the lens to the pool light housing in a manner so that the fasteners are easily accessible when the pool light components are assembled together. This prior art arrangement allows for easy maintenance of a pool light in the event that the pool light assembly needs to be opened to replace an interior bulb, for example.

Applicant's representative went on to explain how embodiments of the instant invention, as described in independent claim 30, differ from such a prior art arrangement. For example, the instant application's disclosed embodiments provide the guard member (for example, trim guard 60 in Fig. 3) in a specific arrangement in relation to other components of the claimed pool light in order to prevent unfastening of at least one of the plurality of fasteners. In this regard, the guard member is configured so as to cover the fasteners so that the fasteners are not easily accessible. In other words, the guard member is situated so as to cover the lens fasteners so that the guard member prevents access to the fasteners when the pool light components are assembled together.

During the telephone interview, Applicant's representative pointed out a portion of the Examiner's "Response to Arguments" included at page 8, lines 6-9 of section 10 of the Final Office Action. The Examiner had noted, at that portion of the Final Office Action, that the claims, in their form at that time, did not recite the features that "the fasteners cannot be easily accessible." The Examiner also noted at this portion of the Final Office Action that the references of record, on the other hand, provide fasteners that "are easily accessible."

Examiner Lovell confirmed her understanding of this important distinction between the instant application's disclosure and the references of record during the telephone interview. The Examiner also re-affirmed her position during the telephone interview, as previously indicated in the above-quoted portions of the Final Office Action, that claim 30 should be further amended in order to specifically describe the feature of the fasteners not being easily accessible.

Accordingly, Applicant's representative reached agreement with Examiner Lovell during the telephone interview to amend independent claim 30 to read "a guard member adapted to prevent unfastening of at least one of the plurality of fasteners by covering the fasteners so that the fasteners are not easily accessible such that the light source is enclosed within a permanently sealed body."

Examiner Lovell indicated that this amendment to claim 30 would likely overcome all of the currently applied art of record, consistent with her indication in the above-discussed portion of the Examiner's "Response to Arguments" included at page 8, lines 6-9 of section 10 of the Final Office Action that the references of record all disclose arrangements in which the fasteners "are easily accessible." The Examiner also went on to note that she would need to perform an additional search in this regard before any indication of allowance could be made.

Accordingly, Applicant has opted to proceed with the amendment to independent claim 30 that was agreed upon between the Examiner and Applicant's representative during the telephone interview. Applicant respectfully submits that the remarks previously filed in this application on June 21, 2006 still apply in this application.

Applicant respectfully submits that, for at least the foregoing reasons, newly-amended independent claim 30 of the instant application is not anticipated by any of the applied references to Thrasher, Ruthenberg, Poppenheimer, or Rowley. Accordingly, Applicant respectfully asserts that the rejections under 35 U.S.C. § 102(b) should be withdrawn because none of Thrasher, Ruthenberg, Poppenheimer and Rowley, teach, or even suggest, the combination of features described in independent claim 30 of the instant application.

In addition, the rejections under 35 U.S.C. § 103(a) should also be withdrawn. MPEP § 2143.03 notes that "[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 409 F.2d 981, 180 USPQ 580 (CCPA 1974)." As explained above, the prior art teaches away from the invention, and does not contain any suggestion of all of the claim limitations.

Applicant thanks the Examiner for the indication that claims 34-38, 40-48 and 52-62, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form. However, Applicant respectfully asserts that these dependent claims, like the remaining dependent claims, are allowable at least because of their dependence from independent claim 30, and the reasons set forth above. Accordingly, withdrawal of the objection to those claims is respectfully requested. Moreover, it is respectfully submitted that the additionally applied reference to Poggi, with respect to claims 33 and 34, does not cure the deficiencies discussed above with regard to Rowley.

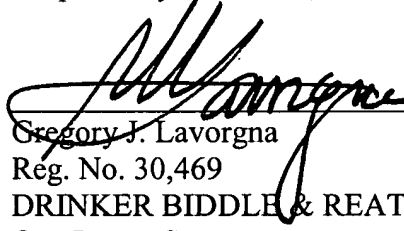
CONCLUSION

In view of the foregoing discussion, Applicant respectfully requests the entry of the amendments to place the application in clear condition for allowance or, in the alternative, in better form for appeal. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

By:



Gregory J. Lavorgna
Reg. No. 30,469
DRINKER BIDDLE & REATH LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996
Tel: (215) 988-3309
Fax: (215) 988-2757
Attorney for Applicant